

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

VITALY ZAKOUTO,

Petitioner,

v.

ISIDRO BACA, *et al.*,

Respondents.

Case No. 3:17-cv-00046-LRH-VPC

ORDER

Petitioner Vitaly Zakouto filed an application to proceed *in forma pauperis* (ECF No. 1) submitted with his petition for writ of *habeas corpus*. On May 4, 2018, the Court stayed this matter pending completion of state court appellate proceedings and this matter was administratively closed until further order of the Court. (ECF No. 17.) Respondents have now filed a suggestion of death on the record indicating that Zakouto died on April 25, 2023. (ECF No. 27.) The Nevada Department of Corrections' ("NDOC") online records<sup>1</sup> confirm that Zakouto is deceased.

The Court may entertain a state prisoner's petition for writ of habeas corpus only on the ground that he is "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2254(a). A petitioner's death renders the habeas petition moot. *See Dove v. United States*, 423 U.S. 325 (1976) (per curiam) (dismissing petition for a writ of certiorari from appellate decision in criminal proceedings upon petitioner's death); *Farmer v. McDaniel*, 692 F.3d 1052 (9th Cir. 2012) (upon notice of petitioner's death, appeal dismissed as moot and case remanded to district court to dismiss habeas petition as moot); *Garceau v. Woodford*, 399 F.3d 1101 (9th Cir. 2005) ("Because petitioner's death renders this case moot, the petition for a writ of habeas corpus should be dismissed as moot."); *Griffey v. Lindsey*, 349 F.3d 1157 (9th Cir. 2003) (same).

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<sup>1</sup> The Court takes judicial notice of Petitioner's current status as reported in the NDOC's online records. The inmate search tool may be accessed by the public online at: <https://ofdsearch.doc.nv.gov>

1 Zakouto's death constitutes an end to his detention; thus, this action no longer presents a  
2 live case or controversy. Accordingly, the petition challenging his unconstitutional confinement is  
3 now moot.

4 IT IS THEREFORE ORDERED that Respondents' Motion to Lift Stay (ECF No. 26) is  
5 granted. The Clerk of the Court is instructed to re-open this case.

6 IT IS FURTHER ORDERED that Petitioner Vitaly Zakouto's petition for writ of habeas  
7 corpus (ECF No. 1-1) is dismissed without prejudice as moot, on account of Zakouto's death.

8 The Clerk of the Court is instructed to close this case and enter judgment accordingly.

9 IT IS SO ORDERED.

10 DATED THIS 8<sup>th</sup> day of May, 2023.

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13 LARRY R. HICKS  
14 UNITED STATES DISTRICT JUDGE  
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